HON'BLE Dr. JUSTICE G. YETHIRAJULU

W.P.No.24447 of 2000

Dated this the 31st day of December, 2007

Between:

Narender Munoth .... Petitioner

AND

Transmission Corporation of A.P. Limited,
Rep.by its Managing Director, Vidyut Soudha,
Khairatabad, Hyderabad,
and 3 others

.... Respondents

HON'BLE Dr. JUSTICE G. YETHIRAJULU

W.P.No.24447 of 2000

ORDER:

This Writ Petition has been filed by the petitioner seeking to declare that the provisional assessment notice issued by the second respondent on 06.11.2000 is highly illegal and arbitrary and to further declare that the action of the respondents in collecting 100% provisional assessment amount under coercion and threat of detention is illegal and arbitrary.

2) It is the contention of the petitioner that on the ground that there is some mal-practice to the domestic service of the petitioner, the provisional assessment was made and the notice was served on him and at the same time the concerned authorities have taken him to Police Station and coercing him to pay 100% amount though the condition No.39 (6) of the Terms and Conditions for supply of Electricity requires only payment of 50% of the provisional assessment amount.

3) The respondents did not file any counter affidavit denying

the allegations made by the petitioner.

4) Condition No.39.6 of the Terms and Conditions for supply of Electricity to persons other than licencees of the A.P.TRANSCO, reads as follows:

> "**39.6 Provisional assessment of the loss sustained by the Board and payment**:
> The inspecting officer shall make a provisional estimate of the loss incurred by the Board by the reason of the malpractice or pilferage of energy committed by the consumer, which shall be assessed as mentioned herein below and intimated to the Assistant Divisional Engineer concerned. The A.D.E. concerned shall ensure disconnection of such services forthwith in the case of malpractices with reference to supply of electricity to any disconnected service or pilferage of energy.
> The Assistant Divisional Engineer shall then serve the consumer with a notice of provisional assessment in the prescribed form. Such notice shall mention, *inter alia*.
>
> (a) The matters notice during the inspection of the consumer's premises and installations.
>
> (b) The reasons for disconnection already effected or proposed to be effected and
>
> (c) A provisional estimate of the loss sustained by the Board compute din the prescribed manner.
>
> He shall inform the consumer to pay half of the provisionally assessed amount, pending the inquiry to be conducted by the concerned authority into the case, to secure restoration of supply where supply has been disconnected or to avoid discontinuance of supply where disconnection ahs not been effected. If such payment is made the consumer's service shall not be disconnected on this ground pending the enquiry."

5) In view of the said provision and in view of non-challenge of the fact of coercion asserted by the petitioner, I am inclined to direct the respondents to refund 50% of the provisional assessment amount to the petitioner within four weeks from the date of receipt of this order.

6) So far as the main relief is concerned, it is only a

provisional assessment. The contention of the petitioner is that he did not commit any acts of pilferage or mal-practice. Therefore, he is at liberty to file his explanation and the documents, if any, in support of his contention, and the concerned authority is directed to pass final order regarding the assessment and the petitioner is at liberty to question the validity or otherwise of the order by way of final assessment passed by the concerned authority.

7) Accordingly, the Writ Petition is disposed of.

No order as to costs.

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Dr.G. YETHIRAJULU, J

Date: 31.12.2007
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